

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN CIVIL LIBERTIES UNION,
Plaintiff,

v.

UNITED STATES CUSTOMS AND
BORDER PROTECTION, and UNITED
STATES IMMIGRATION AND CUSTOMS
ENFORCEMENT,
Defendants.

Civil Action No. 19-cv-11311

SUPPLEMENTAL DECLARATION OF JAMES V.M.L. HOLZER

I, James V.M.L. Holzer, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am the Deputy Chief Freedom of Information Act (“FOIA”) Officer for the Department of Homeland Security (“DHS”) Privacy Office (“Privacy Office”). In this capacity, I am the DHS official responsible for implementing FOIA policy across DHS and responding to requests for records under the FOIA, 5 U.S.C. § 552, the Privacy Act, 5 U.S.C. § 552a, and other applicable records access provisions. Further information about my background and qualifications was provided in my initial declaration, dated June 12, 2020, submitted in support of Defendants’ motion for summary judgment on June 12, 2020. *See* Dkt. No. 29.

2. Through the exercise of my official duties, I have become familiar with the background of Plaintiffs’ FOIA request, and I have also become familiar with the background of this litigation. I make the statements herein based on my personal knowledge, as well as based on information that I acquired while performing my official duties.

3. It is my understanding that Plaintiff is now only contesting certain redactions asserted by DHS in two documents that were part of the referral DHS received from United States Immigrations and Customs Enforcement. These two documents are identified as

“Document 2” and “Document 3” in my initial declaration dated June 12, 2020.

Document 2: Wyden Communication

4. Document 2 is a three-page letter from the Assistant Secretary for International Affairs, Office of Strategy, Policy and Plans to Senator Ron Wyden. [Bates pages 2020-ICLI-00013 1168 – 2020-ICLI-00013 1170]. Pursuant to Exemption 7(E), DHS withheld in part portions of the letter. It my understanding that Plaintiff is only challenging the redaction on page two of this letter, Bates stamped 1169.

5. The information redacted on page two of the Wyden Communication contains information about the capabilities of the cell site technology utilized by DHS components and information about the circumstances under which DHS components utilize cell site simulators. The disclosure of this information and strategies if made public would interfere with law enforcement’s ability to conduct some types of lawful surveillance and disclosure of this information could allow individuals to circumvent the law by modifying their activities to avoid detection.

6. Plaintiff’s assertions that the redacted information in the Wyden communication is contained in the documents attached to the June 26, 2020, Declaration of Nathan Freed Wessler, *see* Dkt. No. 32, or has otherwise been made public, to my knowledge, are incorrect.

Document 3: Franken Analysis

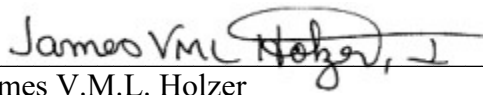
7. Document 3 is a five-page analysis of DHS’ response to Senator Al Franken’s August 24, 2017 Letter. [Bates pages 2020-ICLI-00013 1171 – 2020-ICLI-00013 1175]. Pursuant to Exemption 7(E), DHS withheld in part portions of the analysis. It my understanding that Plaintiff is only challenging the redactions on pages one and four of this letter, Bates stamped 1171 and 1174, respectively.

8. The information redacted on page 4 of the Franken analysis contains information about the capabilities of the cell site technology utilized by DHS components. The disclosure of this information and strategies if made public would interfere with law enforcement's ability to conduct some types of lawful surveillance and disclosure of this information could allow individuals to circumvent the law by modifying their activities to avoid detection.

9. Plaintiff's assertions that the redacted information contained on page 4 of the Franken analysis is contained in the documents attached to the June 26, 2020, Declaration of Nathan Freed Wessler, *see* Dkt. No. 32, or has otherwise been made public, to my knowledge, are incorrect.

I declare the foregoing is true and correct to the best of my knowledge and belief, under penalty of perjury, pursuant to 28 U.S.C. § 1746.

Dated the 6th day of July 2020



James V.M.L. Holzer
Deputy Chief FOIA Officer
U.S. Department of Homeland Security